

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re: CASE NO. _____-BKC-PGH

_____ Chapter ____ Proceeding

Debtor.

_____ /

ORDER SCHEDULING HEARING, PREHEARING, AND DISCOVERY DEADLINES

The Court having determined that it is appropriate to schedule deadlines in order to expedite and facilitate the hearing upon this matter, it is hereby,

ORDERED AND ADJUDGED as follows:

1. The hearing on _____ is set for the _____
_____ at _____ in Courtroom _____,
_____.

2. On or before three (3) business days prior to the hearing, the respective parties shall file and furnish to chambers a copy of a bilateral prehearing stipulation containing a statement of uncontested facts. The failure of counsel to prepare and submit the bi-lateral stipulation may result in sanctions.

3. All discovery shall be completed on or before three (3) business days prior to the hearing. The Court will allow further discovery after that date only upon a showing of good cause and exceptional circumstances.

4. On or before five (5) business day prior to the hearing each

side shall file, with a copy to chambers and opposing counsel, the following:

(a) An exhibit list together with a set of pre-marked exhibits intended to be offered as evidence at the hearing. Movants and/or Plaintiffs shall mark their exhibits numerically. Respondents and/or Defendants shall mark their exhibits alphabetically; and

(b) A witness list.

5. Objections to the use of deposition transcripts or admissibility of exhibits shall be made by three (3) business days prior to the hearing.

6. On or before three (3) business days prior to the hearing, each side shall file, with a copy to chambers and opposing counsel, any written opening statement the party wishes the Court to read before the hearing begins. Oral opening statements will normally not be permitted.

7. The following procedures will be utilized at the hearing in this matter:

(a) Statement of Purpose. The purpose of this particular procedure is to streamline the presentation of direct testimony in the hearing, thus reducing the hearing time without sacrificing due process and a fair hearing;

(b) Procedure. For each witness to be called on behalf of any client's case, the attorney shall prepare a succinct written

statement of the direct testimony which that witness would be prepared to give as though questions were propounded in the usual fashion. Each statement of fact shall be separate, sequentially numbered, and shall contain only facts which are relevant and material to the contested issue before the Court, avoiding redundancies, hearsay, and other obvious objectionable statements. The statement shall be signed under penalty of perjury by the declarant. Such statements may be referenced as the witnesses' "sworn declaration of fact". The original and one copy of the sworn declarations shall be marked as exhibits and filed with the Bankruptcy Court, and a copy delivered to each party or attorney to the action on or before one (1) business day prior to the hearing. Please draft these statements as succinctly as possible; and

(c) If opposing counsel desires to object to any of the statements or portions thereof, he/she may do so at the time the sworn declaration of each respective witness is offered to the Court. The witness shall then be sworn and asked if the statement correctly reflects his/her testimony if he/she were to be asked the appropriate question. Assuming an affirmative answer, opposing counsel is then free to cross-examine the witness. At the conclusion of cross-examination, the party whose witness is on the stand may conduct oral redirect examination in the usual manner and opposing counsel may then conduct recross-examination. This procedure does not preclude legitimate rebuttal testimony in the usual manner. Obviously, counsel

will not be expected to prepare a sworn declaration of facts for an adverse or hostile witness even though he/she may call that witness to testify.

8. At the conclusion of the hearing the Court, in lieu of final argument, may request that each party submit a proposed Memorandum Opinion incorporating findings of fact and conclusions of law and a separate proposed Final Judgment on a 3 ½" disk compatible with Word Perfect 8.0.

DONE AND ORDERED in the Southern District of Florida, this _____ day of _____, 2001.

PAUL G. HYMAN, JR., Judge
United States Bankruptcy Court

Copies furnished to:

Attorney _____ is hereby directed to mail a conformed copy of this order immediately upon receipt of same to all interested parties and to file a certificate of service.

